

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

|   |   |                          |
|---|---|--------------------------|
| <b>DORINE BARRANCO, et al.,</b>         | ) |                          |
|   | ) |                          |
| <b>Plaintiffs,</b>                      | ) |                          |
|   | ) |                          |
| <b>v.</b>                               | ) | <b>CIVIL ACTION NO.</b>  |
|   | ) | <b>1:08-CV-00164-TFM</b> |
| <b>AXA EQUITABLE LIFE INSURANCE</b>     | ) |                          |
| <b>COMPANY, fka THE EQUITABLE LIFE</b>  | ) |                          |
| <b>ASSURANCE SOCIETY OF THE UNITED</b>  | ) |                          |
| <b>STATES, AXA DISTRIBUTORS, LLC,</b>   | ) |                          |
| <b>fka EQUITABLE DISTRIBUTORS, LLC,</b> | ) |                          |
| <b>and AXA ADVISORS, LLC, f/k/a EQ</b>  | ) |                          |
| <b>FINANCIAL CONSULTANTS, INC</b>       | ) |                          |
|   | ) |                          |
| <b>Defendants.</b>                      | ) |                          |

**REQUEST FOR SCHEDULING CONFERENCE**  
**WITH THE COURT**

Pursuant to Rule 16(b), Plaintiffs respectfully request a scheduling conference with the Court. In support of this motion, Plaintiffs state as follows:

1. On June 27, 2008, Plaintiffs forwarded to Defendants a proposed Report of the Parties Planning Meeting. *See* Exhibit A:
2. On June 30, 2008, counsel for Plaintiffs, Caroline Gidiere, and counsel for Defendants, John H. Bolus, conferred regarding the deadlines proposed by Plaintiffs. Counsel agreed that they would not be able to agree on a schedule

given the disparity in timing, which is over six months. Counsel agreed that a scheduling conference with the court would be required to resolve the disparity.

3. Plaintiffs are anxious to begin discovery but are prohibited by Rule 26(d) (1).

For the foregoing reasons, Plaintiffs respectfully request the Court to set a scheduling conference at the earliest practicable date.

Respectfully submitted,

/s/ Caroline Smith Gidiere  
One of the Attorneys for Plaintiffs

**OF COUNSEL:**

Andrew P. Campbell, Esq.  
Caroline Smith Gidiere, Esq.  
Campbell Gidiere Lee  
and Sinclair & Williams, PC  
2100A SouthBridge Pkwy, Ste. 450  
Birmingham, Alabama 35209  
(205) 803-0051  
Fax: (205) 803-0053  
[acmpbell@cgl-law.com](mailto:acmpbell@cgl-law.com)  
[cgidiere@cgl-law.com](mailto:cgidiere@cgl-law.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on July 09, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Armistead Inge Selden, III, Esq.  
John Norman Bolus, Esq.  
Andrea Morgan Greene, Esq.  
**MAYNARD, COOPER & GALE, P.C.**  
1901 Sixth Avenue North  
2400 AmSouth/Harbert Plaza  
Birmingham, AL 35203  
Tel: (205) 254-1000

/s/ Caroline Smith Gidiere

**OF COUNSEL**

# EXHIBIT A

**Caroline Gidiere**

---

**From:** Caroline Gidiere  
**Sent:** Friday, June 27, 2008 11:01 AM  
**To:** 'iselden@maynardcooper.com'; 'jbolus@maynardcooper.com';  
'agreene@maynardcooper.com'  
**Cc:** Andy Campbell  
**Subject:** Barranco v. AXA: Joint Status/Report of Parties Planning Meeting  
**Attachments:** Report of PartiesPlanning Meeting.doc

Dear Inge, John, and Andrea:

I have attached a proposed Joint Status Report and Report of the Parties Planning meeting. Given our long history, I don't believe a meeting in person would be required, so long as we are able to reach an agreement via email. Let me know if you think a conference call is necessary. We may ultimately be required to do a conference call if an agreement is not possible, but let's think positively!

I have proposed what I think are pretty standard time frames, except with regard to the number of depositions and the time limitations for the depositions. We propose a limit of 30 depositions (five more than the number of plaintiffs) and that each deposition be limited in time to 2 hours per side. We agree to abide by this time limitation for our depositions as well.

I look forward to hearing back from you shortly, and I hope you are all doing well.

Kind regards,

Caroline

Caroline Gidiere  
[cgidiere@cgl-law.com](mailto:cgidiere@cgl-law.com)  
CAMPBELL, GIDIERE, LEE  
SINCLAIR & WILLIAMS, P.C.  
2100 SouthBridge Pkwy Ste 450  
Birmingham, Alabama 35209  
T: 205-803-0051  
F: 205-803-0053

[www.cgl-law.com](http://www.cgl-law.com)

The information contained in this message may be attorney-client privileged and contain confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and delete the original message. Thank you.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

|   |   |                          |
|---|---|--------------------------|
| <b>DORINE BARRANCO , et al.,</b>        | ) |                          |
|   | ) |                          |
| <b>Plaintiffs,</b>                      | ) |                          |
|   | ) |                          |
| <b>v.</b>                               | ) | <b>CIVIL ACTION NO.</b>  |
|   | ) | <b>1:08-CV-00164-TFM</b> |
| <b>AXA EQUITABLE LIFE INSURANCE</b>     | ) |                          |
| <b>COMPANY, fka THE EQUITABLE LIFE</b>  | ) |                          |
| <b>ASSURANCE SOCIETY OF THE UNITED</b>  | ) |                          |
| <b>STATES, AXA DISTRIBUTORS, LLC,</b>   | ) |                          |
| <b>fka EQUITABLE DISTRIBUTORS, LLC,</b> | ) |                          |
| <b>and AXA ADVISORS, LLC, f/k/a EQ</b>  | ) |                          |
| <b>FINANCIAL CONSULTANTS, INC</b>       | ) |                          |
|   | ) |                          |
| <b>Defendants.</b>                      | ) |                          |

**REPORT OF PARTIES PLANNING MEETING**

1. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on **Friday, June 27, 2008** and was attended by Caroline Gidiere on behalf of Plaintiffs Dorine Barranco, Rhoda S. Boone, Gerald C. Caputo, Marjorie L. Caputo, Howard R. Dunn, Charles B. Emmett, Kathryn M. Foster, Peggy Shannon Hall, Peggy June Johnson, Earl D. Matthews, Doris Matthews, Frank Miller, Jeanette K. Parker, Kevin M. Patton, Billie S. Rivenbark, Linda Cheri Kelly-Sherer, Anita Carol Shirah, Tommy E. Smith, Tony R. Spivey, Ladonna B. Spivey, Gerald F. Trammell, Ashley Hiatt Wiggins, James Zandy Williams, Sandra Williams, Lynda Wirtzfeld, and by A. Inge Selden, III, John N. Bolus, and Andrea Morgan Greene,

on behalf of Defendants AXA Equitable Life Insurance Company, AXA Distributors, LLC, and AXA Advisors, LLC.

2. **Pre-Discovery Disclosures.** The parties will exchange the information required by Fed.R.Civ.P. Rule 26(a) on or before **July 25, 2008**.

3. **General Claims/Defenses.** The general claims and defenses of the parties are as follows:

a. Plaintiffs – Plaintiffs are customers who purchased an AXA Accumulator variable annuity from Defendants AXA Equitable and AXA Distributors through their agent, Ann Holman. Plaintiffs' claims for fraudulent misrepresentation, suppression, negligent training and supervision, breach of contract, conversion and violation of the Alabama Securities Fraud Act arise out of the fraudulent inducement to purchase the AXA Accumulator annuity based upon the representation that the Accumulator annuity provided a guaranteed rate of return, guarantee of principal, and liquidity at the end of term, the failure to disclose that the Accumulator annuity that Plaintiffs purchased did not provide liquidity at the end of term as represented, did not provide liquidity at a guaranteed rate of return and did not provide a guarantee of principal unless held until death, the failure to honor the contract as sold, and the failure to adequately train and supervise the agent who sold the Accumulator.

b. Defendant AXA Equitable Life Insurance Company -

c. Defendant AXA Distributors, LLC -

d. Defendant AXA Advisors, LLC -

5. **Discovery Plan:**

a. Discovery will be needed on the following subjects:

(i.) All factual allegations and claims made by Plaintiffs in their Complaint;

(ii.) All damages claimed by Plaintiffs in this matter; and

(iii.) All defenses raised by Defendants in this matter.

b. All discovery commenced in time to be completed by **January 30, 2008.**

c. Maximum of **25** interrogatories including all discrete subparts by each side to any other party without prior approval of the Court. (Responses are due **30** days after service).

d. Maximum of **30** Requests of Admission by each side without prior approval. (Responses are due **30** days after service).

e. Each deposition is limited to two hours.

f. Plaintiff shall serve any expert report on or before **October 31, 2008.** Defendants shall serve any expert report by **November 28, 2008.**

6. **Other Items.**

a. The parties do not request a conference with the Court prior to entry of the Scheduling Order.

b. The parties should be allowed until **August 29, 2008** to join additional parties and to amend the pleadings, and until **September 26, 2008** to respond to any above-mentioned amendments.

- c. All potentially dispositive motions should be filed by **March 15, 2009**.
- d. The parties are receptive to mediation but do not request Court ordered mediation at this time.
- e. The Parties request a final pretrial conference in **June 2009**.
- f. Final lists of trial evidence under Rule 26(a)(3) should be due pursuant to the terms of the pretrial order.
- g. Parties should have **14** days after service of final lists of trial evidence to list objections under Rule 26(a)(3).
- h. The case should be ready for a jury trial in **July 2009** and at this time is expected to take approximately **2 weeks**.

Respectfully submitted,

/s/ Caroline Smith Gidiere  
One of the Attorneys for Plaintiffs

**OF COUNSEL:**

Andrew P. Campbell, Esq.  
Caroline Smith Gidiere, Esq.  
Campbell Gidiere Lee  
and Sinclair & Williams, PC  
2100A SouthBridge Pkwy, Ste. 450  
Birmingham, Alabama 35209  
(205) 803-0051  
Fax: (205) 803-0053

I hereby certify that on June 30, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Armistead Inge Selden, III, Esq.  
John Norman Bolus, Esq.  
Andrea Morgan Greene, Esq.  
**MAYNARD, COOPER & GALE, P.C.**  
1901 Sixth Avenue North  
2400 AmSouth/Harbert Plaza  
Birmingham, AL 35203  
Tel: (205) 254-1000

/s/ Caroline Smith Gidiere  
**OF COUNSEL**